

REMARKS

Applicant has amended claim 35 during instant prosecution of this patent application. Applicant is not conceding in this patent application that said amended and canceled claims are not patentable over the art cited by the Examiner, because the claim amendments are only for facilitating expeditious prosecution of this patent application. Applicant respectfully reserves the right to pursue said amended claims in one or more continuations and/or divisional patent applications. Furthermore, the instant claim amendments are done without prejudice, and thus Applicant may seek broader protection in this application in the future.

The Examiner rejected claims 35, 36, 38, 39, 42-46 under 35 U.S.C. §102(b) as allegedly being anticipated by Takizawa (U.S. Patent Publication No. 2004/0176685).

The Examiner rejected claim 40 under 35 U.S.C. §103(a) as allegedly being unpatentable over Takizawa (U.S. Patent Publication No. 2004/0176685) in view of Gazdzinski (U.S. Patent Publication No. 2001/0051766).

The Examiner rejected claim 41 under 35 U.S.C. §103(a) as allegedly being unpatentable over Takizawa (U.S. Patent Publication No. 2004/0176685) in view of Homan et al. (U.S. Patent No. 7,195,588).

The Examiner rejected claims 49-51 under 35 U.S.C. §103(a) as allegedly being unpatentable over Takizawa (U.S. Patent Publication No. 2004/0176685) in view of Ichiro et al. (Japanese Patent No. 2001-091860).

Applicant respectfully traverses the §§ 102, and 103 rejections with the following arguments:

35 U.S.C. § 102(b):

The Examiner rejected claims 35, 36, 38, 39, 42-46 under 35 U.S.C. §102(b) as allegedly being anticipated by Takizawa (U.S. Patent Publication No. 2004/0176685).

Applicant respectfully contends that Takizawa does not anticipate the claim limitations because Takizawa does not teach each and every element of the claim limitations. For example, Takizawa fails to teach, “a power source, operatively positioned within the outer shell and operatively connected to the flexible PCB structure and physically separate *and spaced physically apart from the flexible PCB structure.*” (Claim 35) (emphasis added) The Examiner, in the non-final Office Action mailed 9/8/2010, cites paragraph 0134 [a power source (29), operatively positioned within the outer shell and operatively connected to the flexible PCB structure (see [0134] where power from battery is supplied through FPC) of Takizawa et al. To further define the structure of the capsule pattern endoscope, Applicant amended Claim 35 to require that the power source is physical separate and does not touch the flexible PCB. (See FIG. 2 of Takizawa showing that the battery 29 physically touches the FPC 32) The Examiner disagreed with Applicant, stating that “physically separate” could also mean two independent structures. (See Final Office Action, 3/30/2011, page 7) Thus, to further differentiate the claimed endoscope, Applicant has amended Claim 35 to require that the power source is spaced physically apart from the flexible PCB.

Applicant contends that the limitation “physically spaced apart from” cannot include embodiments wherein two components are physically touching. For example, the battery 29, 120 physically touches the FPC 32, 121, as taught by Takizawa. Contrastingly, claim 35 requires that the power source is physically separate and spaced physically apart from the PCB. The instant specification reads:

“...the outer surface and cover with a 13mm diameter round drum externally to as the protective layer to make main body 93, inside which lens 5, image sensor 6, lamp 7 are installed and place *power source structure in internal capsule 8*. Image sensor 6, lamp 7, outer shell main body 93, *power source structure and other electronics structure connected together by means of lead wires* to form the capsule pattern endoscope with front cover 91 and rear cover 92.” (instant specification, page 7) (emphasis added)

The instant drawings depict an embodiment of an internal capsule 8 which may refer to the internal space/volume surrounded by a cylindrical PCB which is operatively connected to the outer shell. The power source is placed within the internal capsule 8, physically separate and spaced physically apart from the PCB, electrically/operatively connected together by lead wires. Therefore, Takizawa fails to teach and every element of the claim limitations.

Applicant would like to reiterate the following advantages of the structural positioning of the power source with respect to the flexible PCB:

Because the power source is physically separate and spaced physically apart from the flexible PCB (i.e. not positioned on the PCB), various sizes and numbers of power sources may be used. The rollable PCB having components 4 positioned on the PCB allows for increased internal volume, defined by an internal capsule 8. Larger power sources, or multiple power sources may be placed within the internal capsule 8 accordingly. If the power source was positioned on the flexible PCB, the size of the battery may be limited to what the rollable/flexible PCB can accommodate. Likewise, the flexibility of the PCB may also be compromised if the power source was positioned on and not physically separate from the PCB.

Based on the foregoing, Applicant respectfully requests reconsideration and removal of the anticipation rejection, and respectfully contends that claims are in condition for allowance.

35 U.S.C. § 103

The Examiner rejected claim 40 under 35 U.S.C. §103(a) as allegedly being unpatentable over Takizawa (U.S. Patent Publication No. 2004/0176685) in view of Gazdzinski (U.S. Patent Publication No. 2001/0051766).

Applicant respectfully contends that because claim 35 is in condition for allowance, and claim 40 depends from claim 35, Applicant contends that claim 40 is likewise in condition for allowance.

Accordingly, Applicants respectfully request reconsideration and removal of the § 103 rejection.

The Examiner rejected claim 41 under 35 U.S.C. §103(a) as allegedly being unpatentable over Takizawa (U.S. Patent Publication No. 2004/0176685) in view of Homan et al. (U.S. Patent No. 7,195,588).

Applicant respectfully contends that because claim 35 is in condition for allowance, and claim 41 depends from claim 35, Applicant contends that claim 41 is likewise in condition for allowance.

Accordingly, Applicants respectfully request reconsideration and removal of the § 103 rejection

The Examiner rejected claims 49-51 under 35 U.S.C. §103(a) as allegedly being unpatentable over Takizawa (U.S. Patent Publication No. 2004/0176685) in view of Ichiro et al. (Japanese Patent No. 2001-091860).

Applicant respectfully contends that because claim 35 is in condition for allowance, and claims 49-51 depend from claim 35, Applicant contends that claims 49-51 are likewise in condition for allowance.

Accordingly, Applicants respectfully request reconsideration and removal of the § 103 rejection

CONCLUSION

Based on the preceding arguments, Applicant respectfully believes that all pending claims meet the acceptance criteria for allowance and therefore requests favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicant invites the Examiner to contact Applicant's representative at the telephone number listed below. The Director is hereby authorized to charge and/or credit Deposit Account 19-0513.

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